

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Henrik STENDER et al.

Serial No.: 09/943,777

Filed: October 3, 1997

For: NOVEL PROBES FOR THE DETECTION OF MYCOBACTERIA



Group Art Unit: 1655

Examiner: J. Fredman

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TRANSMITTAL

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Transmitted herewith is Corrected Election of Invention under 35 USC 121 and Response to Election of Species Requirement and Petition for Extension of Time in the above-captioned application.

Small Entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.

A check in the amount of \$780.00 for Petition for Extension of Time.

If a Petition for Extension of Time is necessary and the Petition and/or the check is not enclosed, this will act as the Petition and applicant herewith petitions the Commissioner to extend the time for response and charge any fees necessary under 37 CFR 1.17 (a)-(d) to Deposit Account No. 06-1358. The Commissioner is also authorized to charge payment of any other additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1358.

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By: *William B. Jacobson, Jr.*
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Dated: May 14, 2001

HBJ:WEP/vjb

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Attorney Docket. No.: P66536US0

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Title: NOVEL PROBES FOR THE DETECTION OF MYCOBACTERIA

CORRECTED ELECTION OF INVENTION UNDER 35 USC 121 AND
RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Applicants submit the instant paper to correct an error in the election of invention (under 35 USC 121) previously made and in response to the Office Action mailed November 13, 2000.

First, Applicants correct, hereby, an inadvertent error; whereby, in both the instant application and its daughter application (09/544,934), election to the same invention and claims were made pursuant to identical restriction requirements in both cases. That is, in each application, a requirement was made for restriction to either Group I, claims 1-24, 35, and 36, or Group II, claims 25-34; and, in each application, election was made to Group I.

Therefore, to correct the error, Applicants withdraw the election previously made and, hereby, elect Group II, claims 25-34.

Since no action, e.g., search of the prior art, has been undertaken in reliance on the previous election to Group I, Applicants submit that changing the election at this stage of the prosecution adds no burden on the Examiner. Therefore, Applicants request the record be marked

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to reflect their election to Group II, claims 25-34, pursuant to the restriction requirement under 35 USC 121, as set forth in the Office action mailed September 14, 1998.

Secondly, the instant Office Action contains a requirement for election of species to no more than 10 disclosed SEQ ID numbers. Pursuant to the requirement for election of species, Applicants elect SEQ ID numbers 8, 25, 34, 40, 44, 76, 85, 89, 90, and 123. Applicants traverse the requirement to the extent that the election of species does not preclude Applicants from maintaining the generic scope of the invention represented by present claim 251, or other generic scope subsequently claimed.

Favorable action is requested.

Respectfully submitted,

By: 
for Harvey B. Jacobson, Jr.
Reg. No. 20,851

Dated: May 14, 2001

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